

INTERIM BUDGET CONTROL AND ENFORCEMENT ACT OF  
2001

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DECEMBER 13, 2001.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. NUSSLE, from the Committee on the Budget,  
submitted the following

R E P O R T

[To accompany H.R. 3084]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom was referred the bill (H.R. 3084) to revise the discretionary spending limits for fiscal year 2002 set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 and to make conforming changes respecting the appropriate section 302(a) allocation for fiscal year 2002 established pursuant to the concurrent resolution on the budget for fiscal year 2002, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

INTRODUCTION

The purpose of this bill is to revise two limits on Federal spending: the discretionary spending limits, which are set forth in law and are enforced through automatic spending cuts, and the levels in the budget resolution (H. Con. Res. 83) adopted by Congress in May and which are enforced through points of order.

The increase in the spending limits and allocations is based on the fiscal year 2002 budget resolution with adjustments to reflect, under Administration scoring, \$18.4 billion in additional budget authority for defense and a recent agreement by the Appropriations Committees and the Office of Management and Budget [OMB] to provide non-defense discretionary budget authority of about \$3.4 billion above the levels assumed in the budget resolution. It is also understood under this agreement that the spending limits will be adjusted by another \$2.2 billion for domestic emergencies prior to the recent terrorist attack on the United States.

This bill does not extend the discretionary spending limits or the pay-as-you-go requirements beyond their current expiration date at the end of fiscal year 2002. Similarly, it does not provide for other revisions of the fiscal year 2002 budget resolution that Congress agreed to on May 8, 2001. The bill makes the necessary changes in the budget resolution to reflect an additional \$18.4 billion for defense activities and \$3.4 billion for non-defense activities above the levels initially assumed in the budget resolution.

This bill also makes a number of technical corrections in the Balanced Budget and Deficit Control Act, and adds a new reporting requirement for OMB that is designed to give the Committee an understanding of the amount of expenditures related to the recent terrorist attacks that will be carried forward into the future.

## BACKGROUND AND PURPOSE

### TITLE I—REVISING THE DISCRETIONARY SPENDING LIMITS

#### *Background*

The level of the discretionary spending limits for fiscal year 2002 was established in 1997 as part of the Balanced Budget Act [BBA]. Under the original limits established by the BBA, total discretionary budget authority was to increase by only \$24.2 billion, or 4.6 percent, between fiscal years 1998 and 2002. But these spending limits were increased in the third and fourth years of that five-year budget agreement. Most recently, the Foreign Operations Appropriation

Act for Fiscal Year 2001 (P.L. 106–429) raised the fiscal year 2001 limits by \$95.9 billion in budget authority and \$58.6 billion in outlays, but left unchanged the limits for fiscal year 2002.

It is unlikely that either Congress or the President would agree to the magnitude of spending cuts necessary in one year to stay within a fiscal year 2002 spending limit that was established five years earlier. Accordingly, the Administration's budget submission for fiscal year 2002 called for increases of \$107.8 billion in budget authority and \$97 billion in outlays from the original statutory limits. Similarly, the Congressional Budget Resolution (H. Con. Res. 83) established a 302(a) allocation for the House Appropriations Committee that was consistent with increasing the statutory spending limits from those levels by \$108.5 billion in budget authority and \$88.1 billion in outlays.

#### *Purpose*

The discretionary spending limits need to be increased to accommodate the budget priorities of both the Administration and Congress. The President's budget submission for fiscal year 2002 recommended increasing the spending limits to \$660.6 billion in budget authority and \$691.7 billion in outlays, using the Administration's estimates. Similarly, the fiscal year 2002 Congressional Budget Resolution (H. Con. Res. 83) established an overall discretionary allocation that implicitly assumed the statutory spending limits would be raised to \$661.3 billion in budget authority and \$682.8 billion in outlays, and additional funding for defense and other appropriate legislation.

A more immediate reason for increasing the spending limits is to avoid a sequester. According to the Office of Management and

Budget, if the spending limits for fiscal year 2002 are not increased, appropriations at the level originally requested by the Administration will exceed the spending limit for budget authority and trigger a sequester of about \$111.3 billion in budget authority. This would cause most discretionary programs to be reduced in excess of 15 percent.

The spending limits must be raised to reflect the commitment of both the President and Congress to increase defense spending. In addition to accommodating a 3 percent increase in discretionary spending, H. Con. Res. 83 specifically authorized the Budget Committee Chairmen of the House and Senate to increase the appropriate levels in the budget resolution in response to the President's National Defense Review. The Administration submitted an amendment to its budget submission for fiscal year 2002 requesting an additional \$18.4 billion in budget authority and \$11.4 billion in outlays above what was assumed in the budget resolution. Assuming the spending limits were increased to the levels assumed in the budget resolution as of May, a further increase would be necessary to accommodate the additional defense spending without triggering a government-wide sequester.

A further reason for raising the spending limits is to accommodate a recent bipartisan agreement between Congress and the President. In the wake of the recent terrorist attack and in an effort to forge common 302(b) allocations, the Appropriations Committees and OMB entered into negotiations on a revised level of discretionary spending acceptable to OMB and the leadership in the House and the Senate. After several weeks of negotiations, the parties agreed to increase the discretionary budget authority above the levels established pursuant to H. Con. Res. 83—about \$18.4 billion of the total was earmarked for defense, and slightly more than \$3.4 billion for education and other initiatives. It was understood that another \$2.2 billion in non-terrorist-related spending would be designated as an emergency.

It is also necessary to increase the statutory limits in order to permit Senate consideration of the appropriation bills. Under the Congressional Budget Act, an appropriation bill that exceeds the statutory spending limits is subject to a point of order in the Senate. For that reason, the levels established in H. Con. Res. 83 (as opposed to the levels printed in the accompanying Joint Statement of Managers) complied with the statutory spending limits. H. Con. Res. 83, however, directed the Senate Budget Committee Chairman to increase the appropriate levels in the budget resolution to the levels agreed to in the Joint Statement upon the enactment of legislation increasing the spending limits. Accordingly, it is necessary to eliminate any points of order that could impede Senate consideration of appropriation bills.

Finally, by bringing the spending limits into alignment with the appropriation bills, the committee hopes to restore the spending restraints imposed by the statutory spending limits. But as noted above, circumstances have changed drastically since then—especially with the events of September 11. Rigidly adhering to spending levels that do not accommodate clearly unforeseen events would weaken the relevance of the spending limits themselves.

## TITLE II—REVISING THE FY 02 BUDGET RESOLUTION

*Background*

H. Con. Res. 83 assumed an overall discretionary spending level for fiscal year 2002 of \$661.3 billion in budget authority and \$682.8 billion in outlays. This represented an increase over the fiscal year 2001 level, which was also increased as part of H. Con. Res. 83, by \$19.3 billion or 3 percent and \$35.7 billion in outlays or 5.5 percent.

Under section 302(a) and (f) of the Congressional Budget Act, the Senate is prohibited from making an allocation that is higher than the current level of the discretionary spending limits.

The Senate also may not consider any appropriation bill that exceeds these statutory levels. For this reason, the levels set forth in H. Con. Res. 83 are less than those envisioned by the conferees, which were printed in the Joint Statement of Managers.

*Purpose*

A key reason for revising the budget resolution is to enable Congress to approve an increase in defense spending of \$18.4 billion. Although H. Con. Res. 83 permitted the Budget Committee chairmen to make this adjustment, it is appropriate for the entire Congress to vote on a change of this magnitude. It also would remove procedural obstacles to the timely consideration of the appropriation bills. Under the terms of H. Con. Res. 83 and the Congressional Budget Act, the Senate is prohibited from considering appropriation bills at the total level envisioned in the Joint Statement of Managers (H. Con. Res. 83) until legislation is enacted to increase the discretionary spending limit.

Modifying the budget resolution, and increasing the spending limit, will accommodate the recent agreement between the Appropriations Committees and OMB to increase discretionary spending by \$5.6 billion beyond the levels envisioned by the budget resolution.

More importantly, no one could have envisioned the unprecedented terrorist attack on the United States, and the magnitude of resources required to respond to those attacks. In the wake of these events, Congress has provided more than \$56 billion in emergency assistance. Obviously and necessarily, this assistance is beyond what was contemplated in May. According to most economists, the terrorist attacks further weakened an already weak economy. Now the Congress is considering stimulus-related legislation that may exceed \$195 billion over 5 years.

The fiscal concerns of the Committee ought to be balanced with due attention to the state of the economy and the war on terrorism. By modifying the budget resolution to reflect the recent agreement on discretionary spending, it is hoped that this bill will eliminate one obstacle preventing the timely conclusion of the appropriations process. This, in turn, will allow Congress and the Administration to focus their efforts on waging a war against international terrorism.

For procedural convenience, the Committee chose to report revisions to the spending limits under the BBA and the budget resolution in the same legislative vehicle. Necessarily, this procedure required including revisions to the budget resolution in a bill that

may be signed by the President rather than a concurrent resolution that is not. In choosing to revise the budget resolution in this manner, the Committee on the Budget did not intend to endorse the formal involvement of the executive branch in the consideration of future budget resolutions.

#### TITLE III—TECHNICAL CORRECTIONS

##### *Background*

Since the Balanced Budget and Deficit Control Act of 1985 was enacted it has been amended a number of times. During the 15 years since that time, a number of incorrect cross references and typographical errors have accumulated.

##### *Purpose*

The purpose of this title is to make various technical corrections in the Balanced Budget and Deficit Control Act of 1985, which sets forth the discretionary spending limits, the pay-as-you-go requirements, and sequestration-related procedures for their enforcement.

#### LEGISLATIVE HISTORY

The Interim Budget Control and Enforcement Act of 2001 revises the fiscal year 2002 discretionary spending limits to reflect the recent agreement between the President and Congress and makes conforming changes in the budget resolution. This bill also makes various technical revisions to the Balanced Budget and Emergency Deficit Control Act of 1985.

The discretionary spending limits were first established as part of a budget agreement between Congress and the President and were included in the Budget Enforcement Act of 1990 (Public Law 101–508). These discretionary spending limits were revised and extended in 1993 as part of the Omnibus Budget Reconciliation Act (Public Law 103–66). The levels were extended by this act through fiscal year 1998. The discretionary spending limits were revised for fiscal year 1998 and extended for fiscal years 1999 through 2002 by the Balanced Budget Act of 1997 (Public Law 105–33).

Since the overall limits on discretionary spending were established in 1990, separate spending limits have been adopted for certain classes of discretionary programs. A separate limit for programs for the Violent Crime Reduction Act, originally put in place as part of the Violent Crime Reduction Act of 1994 (Public Law 103–322), lapsed after fiscal year 2000 and programs formerly subject to that limit are now under the general purpose discretionary limit. Included within the 1998 highway authorization bill (Transportation Equity Act for the 21st Century or TEA 21, Public Law 105–178) were separate categories for highway and mass transit spending for fiscal years 1999 through 2003. In addition, the Department of the Interior and Related Agencies Appropriations Act of 2001 (Public Law 106–291) created a new spending limit specifically for a conservation category of discretionary appropriations. While the overall discretionary spending limits lapse after fiscal year 2002, the conservation category spending limits extend through fiscal year 2006.

On 29 November 1999, as part of the Consolidated Appropriations Act for fiscal year 2000 (Public Law 106–113), Appropriations

Conferees inserted language intended to avoid breaching the general purpose spending limits and thereby triggering a sequester. The language directed OMB to score the costs of certain mandatory provisions under PAYGO instead of against the spending limits.

On 13 July 2000, the enforcement of the fiscal year 2000 spending limits through sequestration was barred by a provision contained in the supplemental appropriations bill for fiscal year 2000 (Public Law 106–246). The supplemental appropriations bill for that year would have otherwise triggered a mid-session sequester.

On 6 November 2000, the discretionary spending limits for fiscal year 2001 were increased in the omnibus appropriations act for fiscal year 2001 (Public Law 106–429). The adjustment averted a sequester that would otherwise have been triggered by the final appropriation bill of that year.

On 21 December 2000, language that directed OMB to score the costs of certain mandatory provisions under PAYGO instead of against the spending limits was included in the Consolidated Appropriations Act for Fiscal Year 2001 (Public Law 106–554) to ensure that certain mandatory provisions that would otherwise have resulted in a breach of the spending limits and resulted in a sequester, be scored against PAYGO.

On 21 March 2001, the House Budget Committee ordered reported H. Con. Res. 83, the Budget Resolution for Fiscal Year 2002. On 23 March 2001, the House Budget Committee reported the resolution to the House (House Report 107–26). The Budget Committee report noted that discretionary spending in 2002 “will be significantly higher than the current law spending limits.” On 28 March 2001, the House of Representatives considered and agreed to the resolution. The Senate took up the resolution on 3 April 2001, and on 6 April 2001, agreed to the resolution with an amendment.

On 9 April 2001, the President submitted his budget for fiscal year 2002. In his budget, the President proposed raising the discretionary spending limit for fiscal year 2002 to \$660.6 billion. The President also proposed to extend the spending limits through fiscal year 2005.

On 8 May 2001, conferees filed the conference report on H. Con. Res. 83 with the House (House Report 107–60). On 9 May 2001, the House agreed to the conference report and on 10 May 2001, the Senate agreed to the conference report.

H. Con. Res. 83, as agreed to in the conference report, established the overall level of discretionary budget authority at \$661.3 billion. This discretionary spending level exceeded the discretionary spending limit under the Budget Enforcement Act for fiscal year 2002, which was \$552.8 billion at the time.

On 27 June 2001, the Committee on the Budget held a hearing on the Forthcoming Extension/Modification of the Budget Enforcement Act. At the hearing, the Director of the Office of Management and Budget, Mitchell E. Daniels, Jr., testified that he supported raising the 2002 discretionary spending limits to \$679 billion—a level that according to Mr. Daniels reflected the President’s full budget recommendation.

On 2 October 2001, the Administration and congressional appropriators reached an agreement on the level of Federal discretionary spending for fiscal year 2002. This level has been reported to be \$686 billion, which includes \$2.2 billion of emergency spending,

\$1.8 billion of conservation funding, and \$600 million of non-emergency required spending.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 gives the bill the following short title: the “Interim Budget Control and Enforcement Act of 2001.”

##### *Section 2. Purpose*

Section 2 states that this act has the following purposes: to revise the discretionary spending limits for fiscal year 2002 to reflect the recent agreement between the President and Congress; to revise the 302(a) allocation to the Appropriations Committee for fiscal year 2002; and to make various technical corrections in the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as the Deficit Control Act [DCA].

#### TITLE I

Title I amends the DCA, which contains the discretionary spending limits, pay-as-you-go requirements, and related enforcement procedures, to reflect an increase in the discretionary spending limits for fiscal year 2002.

##### *Section 101. Amendments to section 251*

Subsection (a) amends section 251 of the Deficit Control Act of 1985 to increase the general purpose discretionary spending limits, as currently adjusted for fiscal year 2002. The new discretionary levels are set at \$681.4 billion in new budget authority and \$670.4 billion in outlays.

The difference between the proposed spending limit on budget authority of \$681.4 billion and the \$686 billion that was cited in press accounts at the time of the agreement is due to conservation-related spending, anticipated emergencies, and other cap adjustments. The proposed cap on budget authority does not include \$1.8 billion for conservation, \$2.2 billion for non-terrorist-related domestic emergencies, and around \$600 million for Earned Income Tax Credit compliance, continuing disability reviews, and adoption incentive payments. Under current law, the proposed cap will be automatically increased by each of these amounts.

While subsection (a) changes the level for the general purpose discretionary spending limit in fiscal year 2002, it makes no changes in the separate discretionary spending limits for highways, mass transit, and conservation. Nor does it extend any of the limits beyond their current expiration dates. Finally, the bill does not change the process under section 251 of the Deficit Control Act whereby the discretionary spending limits are automatically increased by certain emergency designated appropriations and other specific classes of appropriations such as disability reviews under the Supplemental Security Income program, the Earned Income Tax Credit compliance initiative, and incentive payments for the adoption assistance program.

Subsection (b) updates the “General Statement of Budget Enforcement” in section 251 of the DCA from that of enforcing H. Con. Res. 84 in the first session of the 105th Congress to enforcing

H. Con. Res. 83 in the first session of the 107th Congress. This reflects the fact that, upon the enactment of this bill, the levels of the discretionary spending limits will approximate the 302(a) allocation to the Appropriations Committee, which were set pursuant to the budget resolution. Holding constant for scoring differences between the Congressional Budget Office and the Office of Management and Budget, any bill that breaches the 302(a) allocations and becomes law will trigger an automatic sequester since it will also breach the discretionary spending limits.

*Section 102. Presidential report*

Section 102 directs the President to include with his budget submission for fiscal year 2003, which must be submitted by the first Monday in February, a report identifying all expenditures related to the recent terrorist attacks on the United States on September 11, 2002 that are ongoing or recurring in nature.

This report is intended to assist Congress as it develops its priorities in the context of the budget resolution to determine which budget authority provided in the wake of the events of September 11 should be incorporated into the budget resolution and any future discretionary spending limits for fiscal year 2003 and subsequent years. While the Committee anticipates that certain expenditures provided in the wake of the recent terrorist attacks will require further funds in subsequent years, it recognizes that most expenditures related to the cleanup and rebuilding are essentially one-time events.

TITLE II

Title II revises certain levels and amounts that were initially established by the Concurrent Resolution on the Budget for fiscal year 2002 (H. Con. Res. 83) to levels equivalent to the revised levels for discretionary spending limits established under Title I.

*Section 201. Amendments to FY 2002 budget resolution*

Section 201 increases the recommended levels of new budget authority for fiscal year 2002, which were initially established by section 101(1)(B) of H. Con. Res. 83. The new level is set at \$1.65 trillion. It also increases the recommended outlay levels for each of fiscal years 2002 through 2005 to reflect the anticipated spend out rate of the additional budget authority. The adjustment is roughly equivalent to the revised levels of the discretionary spending limits under Title I except that it reflects CBO scoring of the outlays. Under Section 311(a) of the Congressional Budget Act, any bill that exceeds the levels set in the Budget Resolution is subject to a point of order that precludes further consideration of the measure in both the House of Representatives and the Senate.

Section 201 also makes corresponding and conforming changes in H. Con. Res. 83 by setting forth revised levels of the surplus, public debt, debt held by the public, and interest for fiscal year 2002.

In order to ensure that the budgetary totals equal the sum of the functional categories, paragraph (2) makes an equivalent change in allowances (function 920) for fiscal year 2002. No effort was made to distribute this increase among the budget functions because these changes have already been made through the appropriations process.



The Committee believes that it is fully appropriate to revise the budget resolution. Revisions in the budget resolution are not only sanctioned under existing law but were once routine. Under Section 304 of the Budget Act, Congress is free to revise at any time the budget resolution. Until 1986, Congress routinely adopted a second budget resolution in the fall of each year. Even in the conference report adopted in May, Congress revised the levels for fiscal year 2001 that were established in the budget resolution for the preceding year.

*Section 202. Additional requirements respecting fiscal year 2002 budget resolution*

Section 202(a) directs the chairmen of the Budget Committees of each respective House to make corresponding and conforming changes in H. Con. Res. 83 by setting forth new levels of total budget authority, total budget outlays, the surplus or deficit, public debt, debt held by the public, net interest (function 900), and allowances (function 920) for fiscal years 2003 through 2011 as appropriate. It clarifies that these levels shall be treated as if they were adopted by Congress. Under the Congressional Budget Act, however, these levels are not enforced by points of order.

Subsection (b)(1) expresses the intent of the bill that the allocations set forth pursuant to Section 302(a) of the Congressional Budget Act for fiscal year 2002 will be increased to \$683.2 billion in new budget authority and \$702.8 billion in outlays.

Subsection (b)(2) directs each such chairman to make a corresponding change in the 302(a) allocation that was issued to the Committee on Appropriations pursuant to H. Con. Res. 83. As required under Section 302(b) of the Congressional Budget Act, the Appropriations Committee will be required to subdivide this revised allocation among each of its 13 subcommittees. It will be these revised levels that will be subsequently enforced through Section 302(f) of the Congressional Budget Act, which limits the total level of appropriations provided by the bill to each subcommittee's 302(b) allocation.

Subsection (c) stipulates that these changes must be submitted for printing in the Congressional Record. This is consistent with the current practice of submitting all spending level adjustments into the Record.

Subsection (d) repeals a section of H. Con. Res. 83 that directs the presiding officer of the House to use the levels set forth in the spending table included in the joint statement of managers accompanying the conference report instead of the levels in the actual budget resolution to enforce budget-related points of order.

### TITLE III

*Section 301. Technical corrections to Balanced Budget Act*

Section 301 makes various technical corrections in the Balanced Budget and Deficit Control Act of 1985, which sets forth the discretionary spending limits, the pay-as-you-go requirements, and sequestration-related procedures for their enforcement. These changes are not substantive and, in many cases, reflect the accumulation of 15 years worth of incorrect cross-references and typographical errors.

## EXPLANATION OF AMENDMENTS

The bill was reported without amendment.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

## UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill has the following purposes: to revise the discretionary spending limits for fiscal year 2002 to reflect the recent agreement between the President and Congress; to revise the 302(a) allocation to the Appropriations Committee for fiscal year 2002; and to make various technical corrections in the DCA. As such, the bill does not contain any unfunded mandates.

## ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the committee report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against. No recorded votes were taken on H.R. 3084. The bill was ordered reported by voice vote.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

## COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3084. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and Section 308(a) of the Congressional Budget Act of 1974, and with respect to requirements of

3(c)(3) of rule XIII of the House of Representatives and Section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3084 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 16, 2001.*

Hon. JIM NUSSLE,  
*Chairman, Committee on the Budget,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3084, the Interim Budget Control and Enforcement Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sandy Davis.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 3084—Interim Budget Control and Enforcement Act of 2001*

H.R. 3084 would increase the limits on discretionary spending for 2002 in the Balanced Budget and Emergency Deficit Control Act of 1985 (the Deficit Control Act) and make conforming changes in the recommended levels of discretionary spending for that year in the Congressional budget resolution to reflect the recent bipartisan agreement on appropriations reached between the President and Congressional leaders. By itself, the bill would not directly affect spending or revenue levels; it would simply modify certain budget control procedures. Thus, pay-as-you-go procedures would not apply. Although the bill would make possible higher discretionary spending than current law allows, that increase in spending would be attributable to the appropriation acts that provide the spending authority. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Discretionary spending is provided in annual appropriation acts under the jurisdiction of the House and Senate Appropriations Committees. Those laws generally are controlled by two parallel sets of enforcement procedures. First, the Deficit Control Act, as amended, sets annual limits on total budget authority and outlays for discretionary spending. The discretionary spending limits are enforced automatically by across-the-board cuts in spending (known as sequestration) that are implemented, if necessary, after the end of the Congressional session. The current limits expire after 2002. Second, the Congressional Budget Act of 1974 provides for allocations of total discretionary spending to the House and Senate Appropriations Committees at levels recommended in the most recent concurrent resolution on the budget. Those allocations generally are enforced by points of order, or procedural objections, that can be raised by Members of Congress when the appropriation bills are considered by the House or Senate if the bills are inconsistent with the applicable allocations.

The Balanced Budget Act of 1997 amended the Deficit Control Act to establish the discretionary spending limits for fiscal years 1998 through 2002. The statutory limit for new discretionary budget authority for 2002, as currently adjusted, is about \$550 billion; the current limit for discretionary outlays is \$572 billion. However, the President's 2002 budget and the 2002 Congressional budget resolution recommended total new discretionary budget authority of about \$661 billion for the year. Both budget plans acknowledged that the statutory limits for discretionary budget authority and outlays would have to be increased. On October 2, 2001, the President and Congressional leaders announced a bipartisan agreement to raise the recommended level of total discretionary budget authority for 2002 to \$686 billion, an amount that incorporates additional funds for defense, education, and contingent emergencies that were not included in their original budget plans for the year.

The main purpose of H.R. 3084 is to modify the discretionary spending limits and the Congressional budget resolution to reflect the bipartisan agreement on appropriations for 2002. Under H.R. 3084, the new limits for the overall discretionary category would be \$681.4 billion in budget authority and \$670.4 billion in outlays. (For technical reasons, approximately \$4.6 billion in discretionary budget authority covered by the budget agreement is excluded from the proposed new limits. That amount includes up to \$2.2 billion in appropriations for future emergencies and \$0.6 billion for adoption incentive payments, continuing disability reviews, and an earned income tax compliance initiative; the Deficit Control Act requires the Office of Management and Budget to adjust the limits automatically for those appropriations after they have been enacted into law. Another \$1.8 billion covers appropriations for land conservation programs that are covered by separate limits specified in the Deficit Control Act.)

The bill would also change the aggregate levels in the 2002 budget resolution and certain functional categories in the resolution by amounts that are consistent with the recommended increases in the discretionary spending limits. The Chairmen of the House and Senate Budget Committees would be authorized to increase the allocations of discretionary spending of the House and Senate Appropriations Committees consistent with those new levels. The annual appropriation acts, which are within the jurisdiction of the Appropriations Committees, will provide the actual new discretionary budget authority for 2002.

In addition, H.R. 3084 would require the President, when he submits his budget for 2003, to submit a report to the Congress that identifies spending designated as an emergency under the Deficit Control Act that is related to the terrorist attacks of September 11, 2001, and is of an ongoing or recurring nature. It also would make a series of technical and conforming changes in the Deficit Control Act.

The CBO staff contact for this estimate is Sandy Davis. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c)(4) of House Rule XIII, the goals of H.R. 3084 are to revise the discretionary spending limits for fis-

cal year 2002 to reflect the recent agreement between the President and Congress; to revise the 302(a) allocation to the Appropriations Committee for fiscal year 2002; and to make various technical corrections in the DCA.

The Committee expects the Office of Management and Budget to comply with H.R. 3084 and implement the changes to the law in accordance with these stated goals.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for this legislation is provided in article I, section 8, clause 18, which grants Congress the general legislative power to make all laws necessary and proper for carrying into execution the enumerated powers of Congress.

In addition, the Committee finds that the constitutional authority for Title II of this legislation is also provided in article I, section 5, clause 3, which provides that each House may determine the rules of its proceedings.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows. In addition, changes to the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress, 1st session) are also shown. (New matter is printed in italic and existing law in which no change is proposed is shown in roman):

### BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

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#### PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

##### SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS.

###### (a) TABLE OF CONTENTS.—

Sec. 250. Table of contents; budget enforcement statement; definitions.

Sec. 251. Enforcing discretionary spending limits.

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Sec. 256. **[GENERAL AND SPECIAL SEQUESTRATION RULES]** *General and special sequestration rules.*

\* \* \* \* \*

**[(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for budget enforcement as called for in House Concurrent Resolution 84 (105th Congress, 1st session).]**

*(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for budget enforcement as called for in House Concurrent Resolution 83 (107th Congress, 1st session).*

###### (c) DEFINITIONS.—

As used in this part:

(1) \* \* \*

\* \* \* \* \*

(4)(A) \* \* \*

\* \* \* \* \*

(F) The term “Federal and State Land and Water Conservation Fund sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph* (E)(i)–(E)(iv) or portions thereof.

(G) The term “State and Other Conservation sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph* (E)(v)–(E)(ix), with the exception of Urban and Community Forestry as described in *subparagraph* (E)(ix), or portions thereof.

(H) The term “Urban and Historic Preservation sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph* (E)(ix)–(E)(xii), with the exception of Forest Legacy and Smart Growth Partnerships as described in *subparagraph* (E)(ix), or portions thereof.

(I) The term “Payments in Lieu of Taxes sub-category” means discretionary appropriations for activities in the account described in *subparagraph* (E)(xiii) or portions thereof.

(J) The term “Federal Deferred Maintenance sub-category” means discretionary appropriations for activities in the account described in *subparagraph* (E)(xiv) or portions thereof.

(K) The term “Coastal Assistance sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph* (E)(xv)–(E)(xvii) or portions thereof.

\* \* \* \* \*

(18) The term “deposit insurance” refers to the expenses of the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

\* \* \* \* \*

## SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) \* \* \*

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) PREVIEW REPORT.—

(A) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the [commit-

tees] *Committees* on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

\* \* \* \* \*

(C)(i) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal [years] *year* 2000, 2001, 2002, or 2003, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

(I) \* \* \*

\* \* \* \* \*

(D)(i) \* \* \*

(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal [years] *year* 2000, 2001, 2002, or 2003, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

\* \* \* \* \*

(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term “discretionary spending limit” means—

(1) \* \* \*

\* \* \* \* \*

(5) with respect to fiscal year 2001—

(A) for the discretionary category: \$637,000,000,000 in new budget authority and \$612,695,000,000 in outlays;

(B) for the highway category: \$26,204,000,000 in outlays; and

(C) for the mass transit category: \$5,190,000,000 in outlays;

(6) with respect to fiscal year 2002—

[(A) for the discretionary category: \$551,074,000,000 in new budget authority and \$560,799,000,000 in outlays;]

(A) for the discretionary category: \$681,441,000,000 in new budget authority and \$670,447,000,000 in outlays;

\* \* \* \* \*

## SEC. 252. ENFORCING PAY-AS-YOU-GO.

(a) \* \* \*

(b) SEQUESTRATION.—

(1) \* \* \*

(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase or decrease by adding—

(A) \* \* \*

(B) the estimated amount of savings in direct spending programs applicable to *the* budget year resulting from the prior year’s sequestration under this section or section 253,

if any, as published in OMB's final sequestration report for that prior year; and

\* \* \* \* \*

(c) **ELIMINATING A DEFICIT INCREASE.**—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) \* \* \*

\* \* \* \* \*

(C) **THIRD.**—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by **paragraph (1) subsection (b)**; except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

\* \* \* \* \*

#### **SEC. 254. REPORTS AND ORDERS.**

(a) \* \* \*

\* \* \* \* \*

(c) **SEQUESTRATION PREVIEW REPORTS.**—

(1) \* \* \*

\* \* \* \* \*

(3) **PAY-AS-YOU-GO SEQUESTRATION REPORTS.**—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

**[(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).]**

*(A) The amount of the sequestration, if any, calculated under section 252(b).*

\* \* \* \* \*

(f) **FINAL SEQUESTRATION REPORTS.**—

(1) \* \* \*

\* \* \* \* \*

(4) **EXPLANATION OF DIFFERENCES.**—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under **subsection section 252(b)**, any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of **[sequesterable]** *sequesterable* resources for any budget account to be reduced if such difference is greater than \$5,000,000.

\* \* \* \* \*

#### **SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.**

(a) \* \* \*

\* \* \* \* \*



## (g) OTHER PROGRAMS AND ACTIVITIES.—

(1)(A) \* \* \*

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20–8144–0–7–601);

\* \* \* \* \*

Railroad supplemental annuity pension fund (60–8012–0–7–602);

\* \* \* \* \*

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Biomass energy development (20–0114–0–1–271);

\* \* \* \* \*

Rail service assistance (69–0122–0–1–401); *and*

\* \* \* \* \*

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Block grants to States for temporary assistance for needy families;

Child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);

Temporary assistance for needy families (75–1552–0–1–609);

Contingency fund (75–1522–0–1–609);

Child care entitlement to States (75–1550–0–1–609);

Commodity supplemental food program (12–3512–0–1–605);

Food stamp programs (12–3505–0–1–605 and 12–3550–0–1–605);

Grants to States for Medicaid (75–0512–0–1–551);

Supplemental Security Income Program (75–0406–0–1–609);

[and]

Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605); *and*

Family support payments to States (75–1501–0–1–609)[;] .

\* \* \* \* \*

**SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.**

(a) \* \* \*

\* \* \* \* \*

(k) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph [(5)] (6).

\* \* \* \* \*

**SEC. 257. THE BASELINE.**

(a) \* \* \*

(b) **DIRECT SPENDING AND RECEIPTS.**—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) \* \* \*

(2) **EXCEPTIONS.**—(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are **[differenes]** *differences* between CBO and OMB.

\* \* \* \* \*

**SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.**

(a) **PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.**—

(1) **TRIGGER.**—Whenever CBO issues a low-growth report under section **[254(j)]** *254(i)*, the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section **[254(j)]** *254(i)* are met and suspending the relevant provisions of this title, titles III and VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

(2) **FORM OF JOINT RESOLUTION.**—

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: “That the Congress declares that the conditions specified in section **[254(j)]** *254(i)* of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.”.

\* \* \* \* \*

**SEC. 258B. FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.**

(a) \* \* \*

\* \* \* \* \*

(c) The President may not exercise the authority provided by this **[paragraph]** *section* for a fiscal year unless—

(1) \* \* \*

\* \* \* \* \*

(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this **[paragraph]** *section* becomes law.

(d) Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) for a fiscal year, the majority leader of each House of Congress shall (by request) intro-

duce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this [paragraph] *section*.

\* \* \* \* \*

## HOUSE CONCURRENT RESOLUTION 83, 107TH CONGRESS

(Concurrent Resolution on the Budget for Fiscal Year 2002)

### TITLE I—RECOMMENDED LEVELS AND AMOUNTS

#### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 2001 through 2011:

(1) \* \* \*

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2001: \$1,653,681,000,000.

[Fiscal year 2002: \$1,510,948,000,000.]

*Fiscal year 2002: \$1,648,921,000,000.*

\* \* \* \* \*

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2001: \$1,600,529,000,000.

[Fiscal year 2002: \$1,476,841,000,000.]

*Fiscal year 2002: \$1,611,036,000,000.*

\* \* \* \* \*

(4) SURPLUSES.—For purposes of the enforcement of this resolution, the amounts of the surpluses are as follows:

Fiscal year 2001: \$29,933,000,000.

[Fiscal year 2002: \$161,361,000,000.]

*Fiscal year 2002: \$27,166,000,000.*

\* \* \* \* \*

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 2001: \$5,660,699,000,000.

[Fiscal year 2002: \$5,603,812,000,000.]

*Fiscal year 2002: \$5,738,007,000,000.*

\* \* \* \* \*

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2001: \$3,243,211,000,000.

[Fiscal year 2002: \$2,924,234,000,000.]

*Fiscal year 2002: \$3,058,429,000,000.*

\* \* \* \* \*

**SEC. 102. MAJOR FUNCTIONAL CATEGORIES.**

Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 2002 through 2011 for each major functional category are:

(1) \* \* \*

\* \* \* \* \*

(18) Net Interest (900):

Fiscal year 2001:

(A) New budget authority, \$275,467,000,000.

(B) Outlays, \$275,467,000,000.

[(Fiscal year 2002:

[(A) New budget authority, \$259,162,000,000.

[(B) Outlays, \$259,162,000,000.]]

Fiscal Year 2002:

(A) New budget authority, \$262,639,000,000.

(B) Outlays, \$262,639,000,000.

\* \* \* \* \*

(19) Allowances (920):

Fiscal year 2001:

(A) New budget authority, \$84,528,000,000.

(B) Outlays, \$84,697,000,000.

[(Fiscal year 2002:

[(A) New budget authority, – \$103,548,000,000.

[(B) Outlays, – \$99,379,000,000.]]

Fiscal Year 2002:

(A) New budget authority, \$15,948,000,000.

(B) Outlays, \$16,340,000,000.

\* \* \* \* \*

## **TITLE II—BUDGET ENFORCEMENT AND RULEMAKING**

\* \* \* \* \*

### **Subtitle C—Miscellaneous Provisions**

#### **SEC. 221. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.**

(a) \* \* \*

\* \* \* \* \*

(d) ENFORCEMENT IN THE HOUSE.—

(1) \* \* \*

[(2) APPROPRIATE LEVELS.—For purposes of enforcement of the Congressional Budget Act of 1974 in the House of Representatives, the appropriate levels of total new budget authority and total budget outlays for fiscal years 2002 through 2011 prescribed by this resolution pursuant to section 301(a)(1) of such Act shall be based upon the table entitled “Conference Report Fiscal Year 2002, Budget Resolution Total Spending and

Revenues” in conjunction with the provisions of title II of this resolution.】

\* \* \* \* \*

○